

**ASSEMBLY BILL**

**No. 788**

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**Introduced by Assembly Member Chavez**

February 20, 2003

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An act to amend Section 41712 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 788, as introduced, Chavez. Air pollution: consumer products.

Existing law requires the State Air Resources Board to adopt regulations to achieve the maximum feasible reduction in volatile organic compounds emitted by consumer products, if the state board determines that adequate data exist to establish that the regulations are necessary to attain state and federal ambient air quality standards, and that the regulations are commercially and technologically feasible and necessary. Existing law also prohibits the state board from adopting a regulation pertaining to disinfectants before December 1, 2003.

This bill would extend that prohibition until January 1, 2007.

The bill would make other conforming changes and would delete certain obsolete portions of law.

The bill would require the state board, if it proposes any regulation intended to limit emissions of volatile organic compounds from disinfectants, to submit to the Legislature and the Governor an initial statement of reasons for the proposed regulation, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. Section 41712 of the Health and Safety Code is amended to read:

41712. (a) For purposes of this section, the following terms have the following ~~meaning~~ meanings:

(1) “Consumer product” means a chemically formulated product used by household and institutional consumers, including, but not limited to, detergents; cleaning compounds; polishes; floor finishes; cosmetics; personal care products; home, lawn, and garden products; disinfectants; sanitizers; aerosol paints; and automotive specialty products; but does not include other paint products, furniture coatings, or architectural coatings.

(2) “Health benefit product” means an antimicrobial product registered with the Environmental Protection Agency.

(3) “Maximum feasible reduction in volatile organic compounds emitted” means at least a 60-percent reduction in the emissions of volatile organic compounds resulting from the use of aerosol paints, calculated with respect to the 1989 baseline year, including acetone in that baseline year.

(4) “Medical expert” means a physician, including, *but not limited to*, a pediatrician, a microbiologist, or a scientist involved in research related to infectious disease and infection control.

(b) The state board shall adopt regulations to achieve the maximum feasible reduction in volatile organic compounds emitted by consumer products, if the state board determines that adequate data ~~exists~~ *exist* to establish both of the following:

(1) The regulations are necessary to attain state and federal ambient air quality standards.

(2) The regulations are commercially and technologically feasible and necessary.

(c) A regulation ~~shall~~ *may* not be adopted ~~which~~ *if it* requires the elimination of a product form.

(d) The state board ~~shall~~ *may* not adopt regulations pursuant to subdivision (b) unless the regulations are technologically and commercially feasible, and necessary to carry out this division. The state board shall consider the effect that the regulations proposed for health benefit products will have on the efficacy of those products in killing or inactivating agents of infectious diseases such as viruses, bacteria, and fungi, and the impact the

1 regulations will have on the availability of health benefit products  
2 to California consumers.

3 (e) (1) Prior to adopting regulations pursuant to this section  
4 governing health benefit products, the state board shall consider  
5 any recommendations received from federal, state, or local public  
6 health agencies and medical experts in the field of public health.

7 (2) Within 30 days from the date of the adoption of any  
8 regulation pursuant to this section governing health benefit  
9 products, the state board shall prepare and submit to the  
10 Legislature and the Governor a report that summarizes any  
11 recommendations received pursuant to paragraph (1) and any  
12 conclusions made by the state board concerning the  
13 recommendations.

14 (f) A district ~~shall~~ *may not* adopt ~~no~~ *any* regulation pertaining  
15 to disinfectants, ~~nor~~ *or* any regulation pertaining to a consumer  
16 product that is different ~~than~~ *from* any regulation adopted by the  
17 state board for that purpose.

18 (g) A consumer product manufactured prior to each effective  
19 date specified in regulations adopted by the state board pursuant  
20 to this section that applies to that consumer product may be sold,  
21 supplied, or offered for sale for a period of three years from the  
22 specified effective date if the date of manufacture or a  
23 representative date code is clearly displayed on the product at the  
24 point of sale. An explanation of the date code shall be filed with  
25 the state board.

26 (h) (1) It is the intent of the Legislature that, prior to January  
27 1, 2000, air pollution control standards affecting the formulation  
28 of aerosol adhesives and limiting emissions of ~~reactive~~ *volatile*  
29 organic compounds resulting from the use of aerosol adhesives be  
30 set solely by the state board to ensure uniform standards applicable  
31 on a statewide basis.

32 (2) ~~The Legislature recognizes that the current state board~~  
33 ~~volatile organic compound (VOC) limit for aerosol adhesives is 75~~  
34 ~~percent by weight. Effective January 1, 1997, the state board's~~  
35 ~~75 percent standard standards for aerosol adhesives~~ shall apply to  
36 all uses of aerosol adhesives, including consumer, industrial, and  
37 commercial uses, and any district regulations limiting the VOC  
38 content of, or emissions from, aerosol adhesives, are null and void.  
39 After that date, a district may adopt and enforce the ~~state board's~~  
40 ~~75 percent standard standards adopted by the state board~~ for

1 aerosol adhesives, ~~or a subsequently adopted state board standard,~~  
2 in the same manner as a district regulation limiting the issuance of  
3 air contaminants.

4 (3) ~~On or before July 1, 2000, the state board shall prepare a~~  
5 ~~study and conduct a public hearing on the need for, and the~~  
6 ~~feasibility of, establishing a more stringent standard or standards~~  
7 ~~for aerosol adhesives.~~ If the state board finds that more stringent  
8 limits for aerosol adhesives are expected to become feasible, the  
9 state board shall, at that time, adopt a standard or standards to  
10 implement more stringent VOC limits. At a minimum, the state  
11 board shall establish standards pursuant to this paragraph that  
12 constitute best available retrofit control technology, as defined in  
13 Section 40406, and implement all plans adopted pursuant to  
14 Chapter 10 (commencing with Section 40910) of Part 3 unless the  
15 state board determines that those measures are not achievable.

16 (4) Notwithstanding any other provision of this section, on and  
17 after January 1, 2000, a district may adopt and enforce a regulation  
18 setting an emission standard or standards for VOC emissions for  
19 the use of aerosol adhesives that is more stringent than the  
20 standards adopted by the state board.

21 (i) (1) It is the intent of the Legislature that air pollution  
22 control standards affecting the formulation of aerosol paints and  
23 limiting the emissions of volatile organic compounds resulting  
24 from the use of aerosol paints be set solely by the state board to  
25 ensure uniform standards applicable on a statewide basis. A  
26 district shall not adopt or enforce any regulation regarding the  
27 volatile organic compound content of, or emissions from, aerosol  
28 paints until ~~such time as~~ the state board has adopted a regulation  
29 regarding those paints, and any district regulation shall not be  
30 different than the state board regulation. A district may observe  
31 and enforce a state board regulation regarding aerosol paints in the  
32 same manner as a district regulation limiting the issuance of air  
33 contaminants. This subdivision ~~shall~~ *does* not apply to any district  
34 that has adopted a rule or regulation regarding aerosol paints  
35 pursuant to an order of a federal court, until ~~such time as~~ the federal  
36 court has authorized the district to observe and enforce the state  
37 board regulation in lieu of the district regulation.

38 (2) ~~On or before January 1, 1995, the~~ *The* state board shall  
39 adopt regulations requiring the maximum feasible reduction in  
40 volatile organic compounds emitted from the use of aerosol paints.

1 ~~The regulations shall establish final limits and require full~~  
2 ~~compliance not later than December 31, 1999, and shall establish~~  
3 ~~interim limits prior to that date resulting in reductions in reactive~~  
4 ~~organic compounds.~~

5 (3) ~~On or before December 31, 1998, the state board shall~~  
6 ~~conduct a public hearing on the technological or commercial~~  
7 ~~feasibility of achieving full compliance with the final limits by~~  
8 ~~December 31, 1999. If the state board determines that a 60-percent~~  
9 ~~reduction in emissions of reactive organic compounds from the use~~  
10 ~~of aerosol paints is not technologically or commercially feasible~~  
11 ~~by December 31, 1999, the state board may grant an extension of~~  
12 ~~time not to exceed five years. During any such extension of time,~~  
13 ~~the most stringent interim limits shall be applicable. Any~~  
14 ~~regulation adopted by the state board shall include a provision~~  
15 ~~authorizing the time extension and requiring a public hearing on~~  
16 ~~technological or commercial feasibility consistent with this~~  
17 ~~subdivision. The state board shall seek to ensure that the final~~  
18 ~~limits for aerosol paints established pursuant to this subdivision do~~  
19 ~~not become federally enforceable prior to the effective date~~  
20 ~~established by the state board for these limits, including any~~  
21 ~~extension granted under this subdivision.~~

22 (4) Reductions required for aerosol paints under this  
23 subdivision are not intended to apply to any other consumer  
24 product.

25 (j) The state board ~~shall~~ *may not adopt a any regulation*  
26 *pertaining to disinfectants any sooner than December 1, 2003*  
27 *before January 1, 2007. If the state board proposes any regulation*  
28 *intended to limit emissions of volatile organic compounds from*  
29 *disinfectants, the state board shall submit to the Legislature and*  
30 *the Governor an initial statement of reasons for the proposed*  
31 *regulation, which shall be submitted no later than the date on*  
32 *which the notice of proposed action is published pursuant to*  
33 *Section 11346.4 of the Government Code. The initial statement of*  
34 *reasons shall include all of the information described in*  
35 *subdivision (d) and all of the information required by subdivision*  
36 *(b) of Section 11346.2 of the Government Code.*

37 (k) The state board shall comply with its volatile organic  
38 compound emission reduction obligations under the 1994 State  
39 Implementation Plan, or any amendments thereto, and shall ensure

- 1 that there is no loss of emission reductions as a result of its
- 2 compliance with subdivision (j).

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